

Message Text

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ACTION EUR-12

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P 221530Z MAY 75

FM AMEMBASSY ATHENS

TO SECSTATE WASHDC PRIORITY 8836

INFO CINCUSNAVEUR PRIORITY

CMC WASHDC PRIORITY

MARSECURITYGRD BN WASHDC PRIORITY

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C O N F I D E N T I A L ATHENS 3794

E.O. 11652: GDS

TAGS: ASEC AFSP MILI OGEN GR

SUBJ: CASE OF MSG TELESFORO SANCHEZ

REF A. ATHENS 2451 B. STATE 072717

1. AS SET FORTH PARA 2 REF A AND APPROVED BY REF B, WE INFORMED FONOFF APRIL 3 OF USG'S INTENTIONS WITH RESPECT TO SANCHEZ CASE. ON APRIL 5 FONOFF INFORMED MINISTRY OF JUSTICE AND MINISTRY OF PUBLIC ORDER OF THE DEVELOPMENT AND REQUESTED THAT THESE MINISTRIES CAUSE THE OFFICIALS DIRECTLY CONCERNED WITH THE CASE TO COOPERATE, INCLUDING WHERE NECESSARY APPEARING AS WITNESSES IN U.S. COURT MARTIAL TRIAL.

2. ON APRIL 25 WITH DCM AND ON APRIL 30 WITH AMBASSADOR, FONOFF DIRGEN FOR POLITICAL AFFAIRS TZOUNIS POINTED OUT THAT MINISTRY OF JUSTICE DISAGREED WITH FONOFF ACCEPTANCE OF USG'S VIEW THAT MSG SANCHEZ AS A MEMBER OF ADMINISTRATIVE AND
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TECHNICAL STAFF OF EMBASSY ENTITLED UNDER ART. 36, PARA 2,

OF VIENNA CONVENTION OF 1961 TO DIPLOMATIC IMMUNITY FROM CRIMINAL JURISDICTION PROVIDED FOR IN ART. 31 OF THE CONVENTION. THE MINISTRY OF JUSTICE REPORTEDLY CONTENTED THAT MARINE SECURITY GUARDS ARE PART OF SERVICE STAFF OF EMBASSY, WHOSE IMMUNITY IS MORE NARROWLY DEFINED IN ART. 37, PARA 3 OF THE CONVENTION, AND WHICH WOULD NOT EXEMPT SANCHEZ FROM GREEK JURISDICTION IN THE CASE AT HAND. TZOUNIS FELT THAT THE FONOFF COULD OVERCOME THE OBJECTION OF THE MINISTRY OF JUSTICE RE IMMUNITY UNDER THE VIENNA CONVENTION. HOWEVER, THIS MINISTRY APPARENTLY HAD ALSO CONTENTED THAT HOLDING A COURT MARTIAL TRIAL ON GREEK SOIL (I.E. NAVCOMSTA NEA MAKRI) WOULD INFRINGE UPON GREEK SOVEREIGNTY, SINCE, UNLIKE COURTS MARTIAL OF MEMBERS OF A FORCE COVERED BY THE NATO SOFA, THERE IS NO AGREEMENT PERMITTING SUCH A TREPASS ON GREEK SOVEREIGNTY.

3. TZOUNIS INDICATED THAT THE COURT MARTIAL TRIAL COULD BE HELD IN GREECE ONLY IF SPECIAL FORMAL PERMISSION OF THE GOG WERE GIVEN OR IF A SPECIAL LAW WERE PASSED TO PERMIT COURTS MARTIAL TO BE HELD. SINCE (A) HE FELT THAT EITHER OF THESE COURSES OF ACTION WOULD INFLAME PUBLIC OPINION, (B) THE GOG DID NOT WISH TO EXACERBATE EXISTING ANTI-AMERICAN FEELING, AND (C) HE WISHED TO AVOID UNNECESSARY CONTROVERSY OVER THE SANCHEZ CASE, TZOUNIS WISHED TO SOUND OUT USG ON AN ALTERNATIVE SOLUTION. THIS WOULD BE TO HOLD THE COURT MARTIAL ON A U.S. NAVY SHIP OUTSIDE THE 6-MILE TERRITORIAL LIMITS OF GREECE. IF THIS WERE FEASIBLE, HE BELIEVED THE POLICE OFFICIALS INVOLVED WOULD BE MADE AVAILABLE TO TESTIFY AND COULD BE TAKEN OR FLOWN TO THE SHIP INVOLVED. ALTHOUGH HE STRESSED THAT THIS WAS NOT AN OFFICIAL PROPOSAL, A FAVORABLE REACTION FROM THE USG WOULD PROBABLY ENABLE HIM TO OVERCOME THE OBJECTIONS OF THE MINISTRY OF JUSTICE. DCM AND AMBASSADOR UNDERTOOK TO LOOK INTO THE FEASIBILITY OF TZOUNIS' SUGGESTION.

4. ON MAY 1, CINCUSNAVEUR STOPPED BRIEFLY IN ATHENS AND DURING HIS CALL ON AMBASSADOR LATTER DESCRIBED TZOUNIS' PROPOSAL. ADMIRAL SHEAR FELT THATHOLDING COURT MARTIAL TRIAL ABOARD SHIP WAS FEASIBLE, BUT THAT INDEFINITE DATE AND DURATION OF SUCH A HEARING WOULD MAKE COMMITMENT OF A LARGE SHIP IMPRACTICAL. POINTING OUT THAT A US NAVY SHIP

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WAS SOVEREIGN US TERRITORY WHEREVER IT WAS LOCATED, HE SUGGESTED INSTEAD THAT TRIAL BE HELD ON A HOMEPORTED SHIP MOORED AT THE ELEFSIS PIER. SUBSEQUENTLY, A SCHEDULE OF SHIP AVAILABILITIES FOR POSSIBLE USE IN HOLDING COURT MARTIAL TRIAL WAS PROVIDED BY US NAVY.

5. ON MAY 5, POL/MIL OFFICER DESCRIBED ALTERNATIVE OF TRIAL ON HOMEPORTED SHIP TO MIGLIARESSIS, MFA DIRECTOR OF U.S.

AND WESTERN EUROPEAN FAAIRS, SINCE TZOUNIS WAS THEN OUT OF COUNTRY, AND ALSO STRESSED THE PROBLEM INCREASINGLY POSED BY PASSAGE OF TIME WITHOUT HEARING OF CHARGES PRE- FERRED AGAINST SANCHEZ. MIGLIARESSIS, WHO WAS THOROUGHLY FAMILIAR WITH DETAILS OF THE SITUATION, EXPRESSED UNDERSTAND- ING CONCERNING THE PROBLEM OF DELAYED TRIAL OF CASE AND UNDERTOOK TO PURSUE MATTER WITH TZOUNIS AND FONMIN BITSIOS. IN MAY 19 DISCUSSION WITH POL COUNSELOR ON OTHER TOPICS, MIGLIARESSIS INDICATED THAT MINISTRY OF JUSTICE WAS ADAMANT IN ITS POSITION THAT SANCHEZ IS NOT IMMUNE FROM CRIMINAL JURISDICTION OF THE GOG. MIGLIARESSIS EXPRESSED HIS FEELING THAT THE MATTER MIGHT HAVE TO BE RESOLVED BY PRIME MINISTER CARAMANLIS.

6. COMMENT: AS DEPARTMENT WILL APPRECIATE, TZOUNIS AND BITSIOS HAVE BEEN FULLY OCCUPIED IN SCHEDULE OF OFFICIAL VISITS BY CARAMANLIS, IN BILATERAL MEETING WITH TURKS IN ROME, AND IN PREPARATION FOR FORTHCOMING NATO SUMMIT. HOWEVER, WE WILL CONTINUE TO PRESS MATTER WITH THE FONOFF. THE ONLY ALTERNATIVES TO HOLDING TRIAL ABOARD SHIP WOULD APPEAR TO BE TO REMOVE SANCHEZ TO ANOTHER COUNTRY FOR COURT MARTIAL, WHERE APPEARANCE OF WITNESSES WOULD BE EXTREMELY DIFFICULT IF NOT IMPOSSIBLE TO ARRANGE, OR HOLDING COURT MARTIAL IN THIS EMBASSY. ALTHOUGH WE WOULD BE WILLING TO HAVE HEARING TAKE PLACE IN EMBASSY IF A FULL AND COMPLETE HEARING OF THE CHARGES AGAINST SANCHEZ WOULD OTHERWISE BE IMPOSSIBLE, WE ARE NOT SURE HOW GOG WOULD REACT AS THE WHOLE QUESTION OF "EXTRATERRITORIALITY" IS MOST SENSITIVE HERE, ESPECIALLY FOR AMERICANS, AND COULD RESULT IN GOG REFUSAL TO PERMIT APPEARANCE OF WITNESSES, SINCE JUSTICE MINISTRY HAS TAKEN POSITION THAT TRIALS MAY NOT BE HELD IN EMBASSIES.

7. WE WILL NATURALLY CONTINUE TO KEEP ADDRESSEES INFORMED
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BUT IN MEANTIME WOULD BE GLAD TO HAVE ANY COMMENT OR
ADDITIONAL GUIDANCE THAT MIGHT BE HELPFUL. KUBISCH

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